

GAM

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

José Enrique Nuñez III

(In the space above enter the full name(s) of the plaintiff(s).)

19 0408

- against -

Tina Norris

Sandy Swartly

Mitsy Montan

Narden Janine L. Dugley

Matthew Conell, Esq.

Textbehind, Inc.

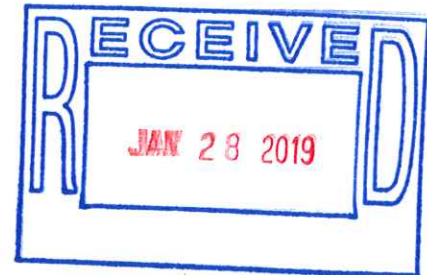
Andrew Weber

David Kope

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)



(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name José Enrique Nuñez III
ID # 2016-0705
Current Institution Berks County Jail System
Address 1287 County Welfare Road Leesport, PA 19533

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Warden Janine L. Quigley, CJM Shield # _____
Where Currently Employed Berks County Jail System
Address 1287 County Welfare Rd
Leesport, PA 19533

Defendant No. 2 Name Andrew Weber Shield # _____
Where Currently Employed Berks County Jail System
Address 1287 County Welfare Rd
Leesport, PA 19533

Defendant No. 3 Name David Kope Shield # _____
Where Currently Employed Berks Jail
Address 1287 County Welfare Rd
Leesport, PA 19533

Defendant No. 4 Name TextBehind, Inc. Shield # _____
Where Currently Employed TextBehind, Inc.
Address P.O. Box 247
Phoenix, MD 21131

Defendant No. 5 Name Matthew Cornell, Esq Shield # _____
Where Currently Employed The MacMain Law Group LLC
Address 433 W. Market St. Suite 200
West Chester, PA 19382

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur? Berks County Jail System @ 1287 County Welfare Rd. Leesport, PA 19533
- B. Where in the institution did the events giving rise to your claim(s) occur? _____
- C. What date and approximate time did the events giving rise to your claim(s) occur? _____

Cont.
Back
of
Pg 2.

Def 6. Tina Norris

BCJS / Prime Care Medical Inc.

1287 County Welfare Rd
Leesport, PA 19533

Def 7. Sandy Swartly

BCJS / Primecare Medical Inc.

1287 County Welfare Rd
Leesport, PA 19533

Def. 8 Mitsy Morden

BCJS / Primecare Medical Inc.

1287 County Welfare Rd
Leesport, PA 19533

What happened to you?

D. Facts: I José Enrique Nuñez III (BCJS # 16-0705) am imprisoned @ Berks County Jail System since May 22, 2017. I am a sentenced county detainee to no less than 11 1/2 months - no more than 23 months. I am 21 years of age and I'm a Mental Health Inmate. I suffered a lot of distress in my early childhood in Foster Care in the State of New York. Through a Foster Care agency named Episcopal Social Service located @ 131 W. 132nd St. NY, NY 10027. My diagnosis are Mood Disorder, ODD, ADHD, Intermittent Explosive Disorder and PTSD and has gotten worse as year gone by. While in custody of BCJS the mental health dept. fails to meet my required mental needs. Which they have me labeled on a C code status on the disciplinary segregated unit. I've been misdiagnosed by the jail psychiatrist Tina Norris and psychologist Sandy Swartley who are overseen by PrimeCare Health Inc. in Harrisburg, PA. Deny me counseling treatment because of being in the hole. I also asked the Medical Dept for my mental & Health records but they deny me the right to have it in my presence. I have the right to manage my own records in my cell. Mitsy Morten RU/BSN/ HSA deny me this ability. The warden of the jail who is denying me my right to my grievance copies as well as the jail representing counsel Matthew Conell, because of my civil suit against C/O Heere. These issues have been occurring since Nov 7, 2017. I've been in the hole since. Now the jail is stopping collect calls to access attorneys for indigent inmate because the processing fee isn't paid. They want us to use our envelopes we get for welfare to contact our lawyers so we won't contact our families. I don't know when the exact date it stop but I filed a grievance on the phone issue. Now the jail has a new inmate mail policy we are forced to use called Text Behind Connecting Relationships in Phoenix, ND 21/31.

Who did what?

Was anyone else involved?

Who else saw what happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Trauma, flashbacks, fear, hallucinations, paranoia, PTSD, loss of weight, insomnia, distress, depression,

No physical injuries more emotional injuries that worsen my mental health stability.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a

Inmates are required to have mail sent to them. Which is violating the Federal Law because this company is not protected with the protection the USPS gives the citizens. This is a privacy issue having a 3rd party receive our personal mail, and photocopying it and are not covered by any law to do. So this is completely illegal. The jail is choosing a 3rd party mail service with no protection rights over the proper United States Postal Services. The jail can open our letters in front of us for investigate of contraband but having it photocopied and filed is a privacy concern which is being used to stop the appropriate governmental mail services USPS. On Jan, 11 I was sexually abused in BCJS by C/O David Kope when he conducted a unnecessary search not leaving my cell due to hole 23 and I lockdown nor did I leave the unit nor did I go to court. C/O David Kope told me to stand on the wall and patted me down. After he patted me down he told me to spread my legs he placed his arm between my legs grabbing my dick & balls with his full hand cupped and slowly and tightly held my dick and balls till he didnt have any of my private in his hand any more. Kope did this in humiliating manner. I filed a PREA on 1/12/19 and the jail PREA officer Andrew Weber who is a Lieutenant conduct a no more than two day investigation. The jail Lt, Cpt etc dont work weekends by time he get the grievance which has to go through treatment first, he did not investigate my sexual abused well enough to gather all supporting evidence. Taking any PREA as a joke. Which the jail doesnt allow PREA calls anymore to the person who oversee PREA in Sel Camphill but the jail insist to use a communication form to act of a fake investigation to keep their officers sexually abusing inmates so they employees dont receive any consequences. See: Newkirk v. Sheers, 834 F. Supp. 772.

NOTE: with this civil suit I'm placing a motion also with this suite

prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Berks County Jail System 1287 County Welfare Rd. Leesport PA 19533

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☒ No ☐ Do Not Know ☐

If YES, which claim(s)? _____

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

Berks County Jail System

1. Which claim(s) in this complaint did you grieve? All described on pg. 3 - section D.

2. What was the result, if any? None

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. Appealed to the highest rank of BCJS.

Page 5 • G

Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Additional Info documents attached

V. Relief:

I am asking for 75,000 due to the infringing of legal contract and emotional distress, lack of appropriate treatment.

VI. Previous lawsuits:

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ___ No ☒

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

On
these
claims

4. Name of Judge assigned to your case _____
5. Approximate date of filing lawsuit _____
6. Is the case still pending? Yes ____ No ____
If NO, give the approximate date of disposition _____
7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

C. Have you filed other lawsuits in state or federal court?

Yes ☒ No ____

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff Jose Enrique Nunez III
Defendants C/O Heene

2. Court (if federal court, name the district; if state court, name the county) Eastern District of PA

3. Docket or Index number 18-04493

4. Name of Judge assigned to your case Gerard A. McMugh

5. Approximate date of filing lawsuit N/A

6. Is the case still pending? Yes ☒ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) Still active

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 17 day of January, 20 19.

Signature of Plaintiff [Signature]

Inmate Number 2016-0705

Pg: 8

Institution Address

• Berks County Jail System
1287 County Welfare Rd
Leesport, PA 19533

I declare under ~~the~~ penalty of perjury that on this 17 day of January 20 19 I am delivering this complaint to prison authorities to be mailed to the Clerk's Office of the United States District Court for the Eastern District of Pennsylvania.

Signature of Plaintiff: 

SENSITIVE

BERKS COUNTY JAIL SYSTEM
INMATE GRIEVANCE FORMInmate Name Jose NuñezBCP# 2016-0705Cell B-102Date 12/17/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Why is it that you can submit a Inmate Communication Form to Third parties of the jail not part of custody. Such as to the following parties: Chapel, Commissary, Education, Medical, Treatment, or other such as to SAM INC., TASC, and/or BCC which you can communicate with those parties via communication form (FREE). There also a specific form to use to contact the Public Defender's office also (FREE). Then you guys (BCIS) is infringing on the inmates right and priviledges to make (FREE) calls to legal authorities. Due to the jail processing not being (PAID). There are inmates who can't financially pay a \$50.00 processing fee. Not everybody that comes to jail are financially stable prior to incarceration. THEREFORE, because of our financial troubles (Indigent Inmates) cannot make a phone call to anyone outside the jail. Indigent inmates receive (2 envelopes + 5 copy paper) a week which I use to contact or others use to contact there family. But there isnt a specific form like the public defender form to contact Probation and Parole at (FREE) of cost, nor isnt a way to contact them via telephone

FOR AMINISTRATIVE USE ONLY

Grievance Response:

There is no constitutional right to have access to a telephone. We provide you two alternatives for communication with family/friends and with lawyers, courts, etc: U.S. Postal Service and inmate visitation. You may request additional legal supplies once per month simply by writing to a treatment supervisor. These supplies include additional envelopes, writing paper, and a pen.

Grievance Answered By: Cpt. L. L. L.Date 12/18/18Grievance # 1907-18Date Posted 12/18/18

**BERKS COUNTY JAIL SYSTEM
INMATE GRIEVANCE FORM**

Page 2

Inmate Name Jose NunezBCP# 2016-0703Cell D-102Date 12/17/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance
 ☐ Form is incomplete
 ☐ Resubmit on proper form
☐ Lacks details
 ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

for (FREE) without the \$50.00 processing (FEE) being paid. Which is a violation of my 14th Amendment Rights; Depriving me as well as other inmates of Life, Liberty. We have the right to life and maintain ways to reach our Liberty. You guys (BCJS Policy) is forcing us (Indigent Inmates) to use "ONLY" one way to contact the people/authorities who can return our Liberty. Which the "only" way your allowing (Indigent Inmates) to contact our Attorney's, Parole/Probation Officer is "only" through U.S. Mail. So it's BCJS way or No Way. We (poor Inmates) have to stop contacting our families, kids, love ones to write (Legal Helpers) with the (2 envelopes) I or other Indigent Inmates get. You's dont consider we have Family, love ones and kids just like you guys.

"Our Family" and "Freedom" is already balanced. You (BCJS) are forcing us To decide who we care for more Family or Freedom.

FOR AMINISTRATIVE USE ONLY

Grievance Response:

See page 1 response

Grievance Answered By: Cpt. C. C. C.Date 12/18/18Grievance # 1907-18

Date Posted _____

Cpt. C. C. C.

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Student's Name: Nunez, Jose Date: 3/17/15

SOCIAL/EMOTIONAL/BEHAVIORAL:

Jose has difficulty demonstrating coping skills when it comes to his emotions. Jose will need to identify and practice conflict resolution skills and coping skills to better handle frustration and anger. Jose has been able to develop a C.A.R.E. Plan that lists and identifies appropriate anger management techniques, as well as better coping skills that he will utilize during periods of frustration or anger.

Classroom observations:

Jose is currently in the third marking period of the 2014-2015 School Year. Jose is taking Social Skills, Biology, American Government, Business Math and is participating in an SRA decoding group for reading. Thus far, Jose has been able to complete most assignments in a timely manner; however there are times when he must be reminded to stay on task. Jose will ask for help when needed.

Jose enjoys playing basketball and videogames. Jose is able to focus when he chooses, but is often distracted by his environment or thoughts, which make it difficult for him to focus consistently. Jose must continue to work on impulse control and continue to learn skills/strategies that will help cope with emotions and feelings of frustration and anger. Based on this information, Jose would be more successful in a special education setting where a small class size, extended time for task completion, repeated directions and a behavior modification system would be utilized. Jose would also have access to his therapist/counselor for 1 on 1 intervention as needed.

In the past, Jose has been diagnosed with Mood Disorder, Oppositional Defiant Disorder, Attention-Deficit/Hyperactivity Disorder, Intermittent Explosive Disorder and Posttraumatic Stress Disorder. Jose has been identified as a student with emotional disturbance. Jose has also exhibited behavioral problems including defiance, impulsive and oppositional. These conditions adversely affect Jose's educational performance as determined by performance on standardized achievement measures. Based on current data and Jose's long history of multiple and serious conditions, he appears to be eligible for and in need of special education services as a student with an Emotional Disturbance.

5/18/15 REVISION MEETING:

The team reviewed Jose's behavior that led to a restraint for the safety of self and others on 5/11/15. Behavioral write-ups and Social Skills Inventory Results were discussed in relation to the incident. The team agreed that, while Jose has shown good effort and behavior in his current placement, he needs to continue to work on appropriately managing social situations in which he feels overly frustrated. It was agreed his existing FBA+PSP was still relevant. The following PSP SDI/Modifications will be implemented to help Jose exhibit his defined replacement behaviors, as they have been found to be helpful to Jose since the 5/11/15 event.

- check-in / check-out w/ preferred staff
- daily
 - school
 - 5/18/15 to 3/15/16
 - defined prompts (on card) when exhibiting signs of frustration / anger
- 1.) STOP
 - 2.) QUIET PLACE
 - 3.) THINK
 - 4.) NEXT STEPS
 - more time
 - talk
 - break
 - walk
- daily
- school
- 5/18/15 to 3/15/16
- Submitted by:
- Matt Nunez, Special Ed. teacher, C.A.R.E.

INDIVIDUALIZED EDUCATION PROGRAM (IEP)
 Student's Name: Nunez, Jose Date: 3/17/15

Outcome Measure	Year	Grade	Fall	Winter	Spring	Level of Skill	Instructional Recommendation
Math Computation (M-COMP)	2014-2015	11		9		Well Below Average	Begin Immediate Problem Solving

Jose scored 9 Points (pts.) from Grade 11 Probes at the Winter Benchmark. Currently, Jose's score is Well Below Average compared to AIMSWEB National Norms Fall Percentiles. This was a score at the 10th percentile compared to other students in the AIMSWEB National Norms Winter Percentiles.

Jose is currently being progressed monitored at the 8th grade level in math comp. At this point he's making progress, but still below his target.

Goal Statement
 In 52.0 weeks, Jose Nunez will achieve 28 Points from grade 8 Math Computation. The rate of improvement should be 0.49 Points per week. The current average rate of improvement is 1.00 Points per week.

NAME Joe Niner
BCP# 21115-0208
HOUSING UNIT B-165
BERKS COUNTY JAIL SYSTEM
1287 COUNTY WELFARE RD
LEESPORT, PA 19533-9397



Kate Bankman
Eastern District of Pennsylvania
Office of
Clerk, United States District Court
Philadelphia, PA 19106-4895

**BERKS COUNTY JAIL SYSTEM
INMATE GRIEVANCE FORM**

Inmate Name Jose NunezBCP# 2046-0705Cell D102Date 2/30/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

According to the Pennsylvania Code I am being housed improper housing unit with my mental health history and diagnosis. In the Pennsylvania Code section 95.226. Housing (2) Inmates who are mentally ill shall be segregated from the general population. And the jail has me housed in the regular disciplinary housing unit for inmates who violate rules/policies from general population and are then house on bell-air-unit the appropriate housing disciplinary segregation unit for general population inmates. Since I've been in custody in Berks County Jail system I been housed on Charlie-1/Charlie-2 which is a mental health unit.

So according to the PA Code I am not housed on the appropriate unit.

FOR AMINISTRATIVE USE ONLY

Grievance Response: You are incorrect in your interpretation. D unit is a Segregated unit - it is NOT general population. Inmates with mental health diagnoses can be housed on D unit, just as they can be housed anywhere else in the jail. MH Seg. Units are for inmates with acute/chronic severe MH needs. Every inmate with a MH diagnosis does not need to be housed Separately - it's about acuity, severity & stability. Mental Health professionals have determined you do not need to be housed on a MH unit at this time.

Grievance Answered By: S. SmithDate 1/3/19Grievance # 1964-18Date Posted 1/3/19

**BERKS COUNTY JAIL SYSTEM
INMATE GRIEVANCE FORM**

Inmate Name Jose MarezBCP# 2016-0705Cell D-102Date 1/12/19

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

On January, 11 2019 at approximately 0630-0730 hours I refused to give my mattress up because I was on the list at 3 am. I was then removed from my cell to speak to Gundy at this time Operator Kope searched my cell and extracted some of my all-in-one items. While returning to my cell operator Kope ordered me to face the wall for a body search. As he searching me he then told me "to spread your feet apart" which I complied then Operator Kope put his arm through my legs going up towards my stomach and with his complete hands he cupped my penis and balls with his entire hand pressing my penis and balls while slowly moving down until he had in once of my private area in his hands. While I yelled "PREA" and "want to make a prison phone call" I was then placed back in my D-102 and noticed some of my stuff in the hall. My school book (Bert's Property), BIAS correctional book, and other items. I told them that was BCIU book not mine nor BIAS and that school book don't count while Kope and Butler worth to not making me choose either the BCIU book or the BIAS correctional book. After I noticed my legal envelope from United States District Court missing a letter I was suppose to rewrite on a civil form, a piece of paper with important legal numbers, and my letter from the PA Prison Society.

FOR AMINISTRATIVE USE ONLY

Grievance Response: Video footage for the incident to which you are referring was reviewed. The search conducted by Operator Kope was performed in accordance with Berks County Jail Policy and there was no inappropriate contact. A strip search, when done properly, will feel uncomfortable as the purpose is to find any potential contraband that could be hidden on a person. Any additional concerns listed above should be submitted on a separate communication form or grievance.

Grievance Answered By: Lt. WeberDate 1/16/19Grievance # 0052-19Date Posted 1/16/19

Lt. Weber

mae

SENSITIVE

BERKS COUNTY JAIL SYSTEM
INMATE COMMUNICATION FORM

SENSITIVE

Inmate Name: Jose E. NunezBCJ #: 2016-0705
Unit/Cell #: D-102Date: 12/17/2018TO: (Select only **one** of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- | | | | | |
|--|--|--|---|--|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody | <input type="checkbox"/> Inmate Accounts | <input type="checkbox"/> Medical | <input type="checkbox"/> Treatment |
| <input type="checkbox"/> Chapel | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> PREA | <input checked="" type="checkbox"/> Warden |
| <input type="checkbox"/> Commissary | <input type="checkbox"/> Education | <input type="checkbox"/> Kitchen | <input type="checkbox"/> Security/Intel | <input type="checkbox"/> Other _____ |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

Warden Junine L. Dugley Re: Request for production of Documents Memo Dated: 12/17/2018

You respond that I did not use proper procedures for requesting information outline in Section 10.1 of the Inmate Handbook - Inmate Communication. And that my document is broad.

A couple months ago I submitted numerous communication and grievance forms about my stuff going missing and if it could be replaced. Different people have respond saying "No" because lack evidence. I've submitted appeals also and you also replied "No". Treatment and ICC both told me I have to suppene the jail to produce my documents again.

Documents I'm Requesting

- All - ICC Forms Response, appeals, grievances, ~~sanction days~~, Hearing Statements, misconduct's

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: [Signature]

RESPONSE: This communication was forwarded to Counsel for response. JLD.

Date 12/27/18 Staff Member (Print) Dugley

and (Sign) [Signature]

CC: _____

Berks County Jail System

Memo

To: Inmate Jose Nunez, BCJS #2016-0705
From: Janine L. Quigley, CJM, Warden *JLQ/tar*
cc: Senior Staff, Captain, Legal File, Author's File
Date: December 17, 2018
Re: Request for Production of Documents

I have received a letter addressed to you and dated December 7, 2018 from the Clerk of Court's Office, along with a copy of your hand-written "Request for the Production of Documents". I have been told that you handed both of these documents to an officer on December 12, 2018 claiming to have received them, via postal service mail, in the same envelope as your personal response from the Clerk of Court's Office. You believed these copies were meant for me and, upon receipt, I did notice that my name has a check mark beside it in the carbon copy section of the letter.

However, upon review of these documents, I recognized that you did not use the proper procedures for requesting information as outlined in Section 10.1 of the Inmate Handbook – Inmate Communication. Please use the inmate communication system as outlined to communicate with staff. As a side note, your document is overly broad, so please be specific with the details of any request that you submit.

JLQ/tar

**BERKS COUNTY JAIL SYSTEM
INMATE GRIEVANCE FORM**

Inmate Name Jose Nunez

BCP# 20160705

Cell D-102

Date 01/02/2018

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

On January 1, 2019 I asked the nurse for a print-out of the medications take, and what there for, sideeffects, what is made of, and information about my Mental Health Diagnosis. The nurses reply was she can't because of HIPAA. She told me to write the privacy officer which I've done several times and received a correspondence from Sandra Ulreich, Privacy Officer stating due to jail policy it's in my property pouch. I wrote looking they said no medical papers is in there. This is a game you's is playing I have the "Right" to have my records. I'm not going to keep using my indigent (two) envelopes I get for using it on someone is going to keeping spinning me. Asking for this information does not violate the Health Insurance Portability and Accountability Act of 1996 (HIPAA) according to the LexisNexis Advance Law Computer if I sign of giving consent in requesting in writing, your copies must be given to you within 30 days. It's been over 10 days more I've been asking for this. This request is NOT a HIPAA violation with my signature and consent to be provided. Please provide me with what I'm requesting. Please and Thank You.

FOR AMINISTRATIVE USE ONLY

Grievance Response: Your request to review your records have been sent to the Corporate Privacy Officer and the approval has come to us on 1/8/19. You will be scheduled for a time to review your chart. All copies of the requested information will be placed in your personal property. We will not give your medical information for in your cell, E2R

Grievance Answered By: Mitchell Montoya BSN HSA

Date 1/9/2019

Grievance # 00006-19

Date Posted 1/14/19

BERKS COUNTY JAIL SYSTEM INMATE COMMUNICATION FORM

Inmate Name: Jose Nunez BCJ #: 2016-0705 Unit/Cell #: B-102 Date: 1/8/19

TO: (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

<input type="checkbox"/> Booking/Mail/Property	<input type="checkbox"/> Custody	<input type="checkbox"/> Inmate Accounts	<input type="checkbox"/> Medical	<input type="checkbox"/> Treatment
<input type="checkbox"/> Chapel	<input type="checkbox"/> Deputy Warden	<input type="checkbox"/> Inmate Telephones	<input type="checkbox"/> PREA	<input type="checkbox"/> Warden
<input type="checkbox"/> Commissary	<input type="checkbox"/> Education	<input type="checkbox"/> Kitchen	<input type="checkbox"/> Security/Intel	<input checked="" type="checkbox"/> Other _____

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

The Warden said she was sending my request for production of documents of my grievances, misconduct's, etc., to the jail's counsel. I received a correspondence from The MacMain Law Group LLC attorney defending C/O Heere in my lawsuit against him. The attorney says I'm request those documents because my lawsuit. My aggravated harassment by prisoner change has nothing to do with C/O Heere and he wasn't a victim in that complaint. Therefore, you're lying so I won't get those documents I'm requesting that has nothing to do with my lawsuit and even if did why are you's infringing me those documents are you's hiding something? Stop lying to C/O Heere defense attorney on my lawsuit saying I'm requesting those documents because C/O Heere who had nothing to do with the incident off O-unit on 1/14/18.

Who can I contact that's higher than Warden Janice L. Dugley, who's her supervisor so I can file a complaint because she lying and dodging me?

First, I was told only my subpoena to provide those documents again. Then, I wrote the Clerk of Courts with a hand-written subpoena who sent the warden a copy of my request. Then the Warden says on a memo directed to me I didn't follow the inmate handbook for proper request. I then submit a comp. form for my request and the warden denies it I'm a joke to you huh? I ain't no F+no** Arcade you is doing everything possible to not meet my request.

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: [Signature]

RESPONSE:

This has been referred to outside counsel. jdk

Date 1/15/19 Staff Member (Print) J. Dugley and (Sign) [Signature]

CC: Legal

BERKS COUNTY JAIL SYSTEM INMATE COMMUNICATION FORM

BCJ #: 2016-0705

Inmate Name: Jose E. Nunez

Unit/Cell #: D-102

Date: 01/04/2019

TO: (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- | | | | | |
|--|--|--|---|--|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody | <input type="checkbox"/> Inmate Accounts | <input type="checkbox"/> Medical | <input type="checkbox"/> Treatment |
| <input type="checkbox"/> Chapel | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> PREA | <input checked="" type="checkbox"/> Warden |
| <input type="checkbox"/> Commissary | <input type="checkbox"/> Education | <input type="checkbox"/> Kitchen | <input type="checkbox"/> Security/Intel | <input type="checkbox"/> Other _____ |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

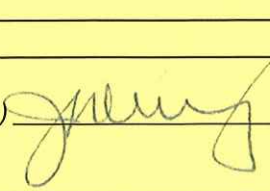
Warden Junine L. Quigley... First you deny me copies of what I requested. Then the counselor tells me that reproduction of copies is only given through subpoena. I sent a correspondence to Clerk of Courts they sent you a copy. Then you sent me memo saying I didn't follow the Inmate on how to properly request records. So I request as follows on communication forms now you deny me these records. I don't understand you it feels like you keep spinning me. Who is over you that I can write to request these records?

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: 

RESPONSE: This has been referred to outside counsel. J. Nunez

Date: 1/15/19 Staff Member (Print): J. Nunez

and (Sign): 

CC: Legal

BERKS COUNTY JAIL SYSTEM INMATE COMMUNICATION FORM

Inmate Name: Jose Nunez BCJ #: 2016-0705 Unit/Cell #: D-102 Date: 1/14/2019

TO: (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

<input type="checkbox"/> Booking/Mail/Property	<input type="checkbox"/> Custody	<input type="checkbox"/> Inmate Accounts	<input type="checkbox"/> Medical	<input type="checkbox"/> Treatment
<input type="checkbox"/> Chapel	<input type="checkbox"/> Deputy Warden	<input type="checkbox"/> Inmate Telephones	<input type="checkbox"/> PREA	<input type="checkbox"/> Warden
<input type="checkbox"/> Commissary	<input type="checkbox"/> Education	<input type="checkbox"/> Kitchen	<input type="checkbox"/> Security/Intel	<input type="checkbox"/> Other _____

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

How long does it take to get a response from the
Jail Counsel to respond for my commun-
ication the warden forwarded
to counsel.

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: [Signature]

RESPONSE: I can assure you that it was forwarded -- I have
no control over how long it will take for you to receive a
response.

Date 1/15/19 Staff Member (Print) J. Nunez and (Sign) [Signature]

CC: Legal



The MacMain Law Group LLC

433 W. Market Street • Suite 200 • West Chester, PA 19382 • www.macmainlaw.com

Matthew J. Connell
Telephone: (484) 318-7803
Facsimile: (484) 328-3996
Email: mconnell@macmainlaw.com

January 2, 2019

Via First Class Mail

Jose Enrique Nunez, III
Inmate ID No. 2016-0705
Berks County Jail System
1287 County Welfare Road
Leesport, PA 19533

RE: Nunez v. CO Heere
Docket No. 18-04493

Dear Mr. Nunez:

My client has forwarded to me a document from you entitled Request for Production of Documents, purportedly under your criminal matter number 2369-18. As you should be aware, you pled guilty on September 5, 2018 to the charge of aggravated harassment by a prisoner on that case. As such, your "Request for Production of Documents" is moot. Should you disagree, I suggest you discuss that with your criminal defense attorney. Otherwise, to the extent that you are seeking information on the lawsuit you filed against my clients, I remind you of your obligations under the Federal Rules of Civil Procedure to direct all communications to my attention. To that end, I have directed my client not to respond to any request for documents that you have requested from the jail. Rather, the request will be forwarded to me and ignored, unless served properly under the Rules of Civil Procedure.

Kindly contact me should you have any questions regarding this matter.

Very truly yours,


Matthew J. Connell

MJC/jfb